

EXTENSION OF SALES AND USE TAX EXEMPTION

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill amends a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ extends a sales and use tax exemption related to a steel mill.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

- (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;
- (2) subject to Section **59-12-104.6**, sales to the state, its institutions, and its political



28 subdivisions; however, this exemption does not apply to sales of:

29 (a) construction materials except:

30 (i) construction materials purchased by or on behalf of institutions of the public
31 education system as defined in Utah Constitution Article X, Section 2, provided the
32 construction materials are clearly identified and segregated and installed or converted to real
33 property which is owned by institutions of the public education system; and

34 (ii) construction materials purchased by the state, its institutions, or its political
35 subdivisions which are installed or converted to real property by employees of the state, its
36 institutions, or its political subdivisions; or

37 (b) tangible personal property in connection with the construction, operation,
38 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
39 providing additional project capacity, as defined in Section 11-13-103;

40 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

41 (i) the proceeds of each sale do not exceed \$1; and

42 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
43 the cost of the item described in Subsection (3)(b) as goods consumed; and

44 (b) Subsection (3)(a) applies to:

45 (i) food and food ingredients; or

46 (ii) prepared food;

47 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

48 (i) alcoholic beverages;

49 (ii) food and food ingredients; or

50 (iii) prepared food;

51 (b) sales of tangible personal property or a product transferred electronically:

52 (i) to a passenger;

53 (ii) by a commercial airline carrier; and

54 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

55 (c) services related to Subsection (4)(a) or (b);

56 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
57 and equipment:

58 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

59 North American Industry Classification System of the federal Executive Office of the
60 President, Office of Management and Budget; and
61 (II) for:
62 (Aa) installation in an aircraft, including services relating to the installation of parts or
63 equipment in the aircraft;
64 (Bb) renovation of an aircraft; or
65 (Cc) repair of an aircraft; or
66 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
67 commerce; or
68 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
69 aircraft operated by a common carrier in interstate or foreign commerce; and
70 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
71 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
72 refund:
73 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
74 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
75 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
76 the sale prior to filing for the refund;
77 (iv) for sales and use taxes paid under this chapter on the sale;
78 (v) in accordance with Section 59-1-1410; and
79 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
80 the person files for the refund on or before September 30, 2011;
81 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
82 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
83 exhibitor, distributor, or commercial television or radio broadcaster;
84 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
85 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
86 washing of tangible personal property;
87 (b) if a seller that sells at the same business location assisted cleaning or washing of
88 tangible personal property and cleaning or washing of tangible personal property that is not
89 assisted cleaning or washing of tangible personal property, the exemption described in

90 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
91 or washing of the tangible personal property; and

92 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
93 Utah Administrative Rulemaking Act, the commission may make rules:

94 (i) governing the circumstances under which sales are at the same business location;
95 and

96 (ii) establishing the procedures and requirements for a seller to separately account for
97 sales of assisted cleaning or washing of tangible personal property;

98 (8) sales made to or by religious or charitable institutions in the conduct of their regular
99 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are
100 fulfilled;

101 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
102 this state if the vehicle is:

103 (a) not registered in this state; and

104 (b) (i) not used in this state; or

105 (ii) used in this state:

106 (A) if the vehicle is not used to conduct business, for a time period that does not
107 exceed the longer of:

108 (I) 30 days in any calendar year; or

109 (II) the time period necessary to transport the vehicle to the borders of this state; or

110 (B) if the vehicle is used to conduct business, for the time period necessary to transport
111 the vehicle to the borders of this state;

112 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

113 (i) the item is intended for human use; and

114 (ii) (A) a prescription was issued for the item; or

115 (B) the item was purchased by a hospital or other medical facility; and

116 (b) (i) Subsection (10)(a) applies to:

117 (A) a drug;

118 (B) a syringe; or

119 (C) a stoma supply; and

120 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

121 commission may by rule define the terms:
122 (A) "syringe"; or
123 (B) "stoma supply";
124 (11) sales or use of property, materials, or services used in the construction of or
125 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
126 (12) (a) sales of an item described in Subsection (12)(c) served by:
127 (i) the following if the item described in Subsection (12)(c) is not available to the
128 general public:
129 (A) a church; or
130 (B) a charitable institution;
131 (ii) an institution of higher education if:
132 (A) the item described in Subsection (12)(c) is not available to the general public; or
133 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
134 offered by the institution of higher education; or
135 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
136 (i) a medical facility; or
137 (ii) a nursing facility; and
138 (c) Subsections (12)(a) and (b) apply to:
139 (i) food and food ingredients;
140 (ii) prepared food; or
141 (iii) alcoholic beverages;
142 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
143 or a product transferred electronically by a person:
144 (i) regardless of the number of transactions involving the sale of that tangible personal
145 property or product transferred electronically by that person; and
146 (ii) not regularly engaged in the business of selling that type of tangible personal
147 property or product transferred electronically;
148 (b) this Subsection (13) does not apply if:
149 (i) the sale is one of a series of sales of a character to indicate that the person is
150 regularly engaged in the business of selling that type of tangible personal property or product
151 transferred electronically;

152 (ii) the person holds that person out as regularly engaged in the business of selling that
153 type of tangible personal property or product transferred electronically;

154 (iii) the person sells an item of tangible personal property or product transferred
155 electronically that the person purchased as a sale that is exempt under Subsection (25); or

156 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
157 this state in which case the tax is based upon:

158 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
159 sold; or

160 (B) in the absence of a bill of sale or other written evidence of value, the fair market
161 value of the vehicle or vessel being sold at the time of the sale as determined by the
162 commission; and

163 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
164 commission shall make rules establishing the circumstances under which:

165 (i) a person is regularly engaged in the business of selling a type of tangible personal
166 property or product transferred electronically;

167 (ii) a sale of tangible personal property or a product transferred electronically is one of
168 a series of sales of a character to indicate that a person is regularly engaged in the business of
169 selling that type of tangible personal property or product transferred electronically; or

170 (iii) a person holds that person out as regularly engaged in the business of selling a type
171 of tangible personal property or product transferred electronically;

172 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
173 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
174 facility, of the following:

175 (i) machinery and equipment that:

176 (A) are used:

177 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
178 recycler described in Subsection 59-12-102(64)(b):

179 (Aa) in the manufacturing process;

180 (Bb) to manufacture an item sold as tangible personal property; and

181 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
182 (14)(a)(i)(A)(I) in the state; or

183 (II) for a manufacturing facility that is a scrap recycler described in Subsection
184 59-12-102(64)(b):
185 (Aa) to process an item sold as tangible personal property; and
186 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
187 (14)(a)(i)(A)(II) in the state; and
188 (B) have an economic life of three or more years; and
189 (ii) normal operating repair or replacement parts that:
190 (A) have an economic life of three or more years; and
191 (B) are used:
192 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
193 recycler described in Subsection 59-12-102(64)(b):
194 (Aa) in the manufacturing process; and
195 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
196 state; or
197 (II) for a manufacturing facility that is a scrap recycler described in Subsection
198 59-12-102(64)(b):
199 (Aa) to process an item sold as tangible personal property; and
200 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
201 state;
202 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
203 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
204 of the following:
205 (i) machinery and equipment that:
206 (A) are used:
207 (I) in the manufacturing process;
208 (II) to manufacture an item sold as tangible personal property; and
209 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
210 (14)(b) in the state; and
211 (B) have an economic life of three or more years; and
212 (ii) normal operating repair or replacement parts that:
213 (A) are used:

214 (I) in the manufacturing process; and
215 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
216 (B) have an economic life of three or more years;
217 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
218 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
219 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
220 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
221 of the 2002 North American Industry Classification System of the federal Executive Office of
222 the President, Office of Management and Budget, of the following:
223 (i) machinery and equipment that:
224 (A) are used:
225 (I) (Aa) in the production process, other than the production of real property; or
226 (Bb) in research and development; and
227 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
228 in the state; and
229 (B) have an economic life of three or more years; and
230 (ii) normal operating repair or replacement parts that:
231 (A) have an economic life of three or more years; and
232 (B) are used in:
233 (I) (Aa) the production process, except for the production of real property; and
234 (Bb) an establishment described in this Subsection (14)(c) in the state; or
235 (II) (Aa) research and development; and
236 (Bb) in an establishment described in this Subsection (14)(c) in the state;
237 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
238 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
239 Search Portals, of the 2002 North American Industry Classification System of the federal
240 Executive Office of the President, Office of Management and Budget, of the following:
241 (A) machinery and equipment that:
242 (I) are used in the operation of the web search portal;
243 (II) have an economic life of three or more years; and
244 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

245 in the state; and
246 (B) normal operating repair or replacement parts that:
247 (I) are used in the operation of the web search portal;
248 (II) have an economic life of three or more years; and
249 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
250 in the state; or
251 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
252 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
253 American Industry Classification System of the federal Executive Office of the President,
254 Office of Management and Budget, of the following:
255 (A) machinery and equipment that:
256 (I) are used in the operation of the web search portal; and
257 (II) have an economic life of three or more years; and
258 (B) normal operating repair or replacement parts that:
259 (I) are used in the operation of the web search portal; and
260 (II) have an economic life of three or more years;
261 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
262 Utah Administrative Rulemaking Act, the commission:
263 (i) shall by rule define the term "establishment"; and
264 (ii) may by rule define what constitutes:
265 (A) processing an item sold as tangible personal property;
266 (B) the production process, except for the production of real property;
267 (C) research and development; or
268 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
269 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
270 commission shall:
271 (i) review the exemptions described in this Subsection (14) and make
272 recommendations to the Revenue and Taxation Interim Committee concerning whether the
273 exemptions should be continued, modified, or repealed; and
274 (ii) include in its report:
275 (A) an estimate of the cost of the exemptions;

276 (B) the purpose and effectiveness of the exemptions; and
277 (C) the benefits of the exemptions to the state;
278 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
279 (i) tooling;
280 (ii) special tooling;
281 (iii) support equipment;
282 (iv) special test equipment; or
283 (v) parts used in the repairs or renovations of tooling or equipment described in
284 Subsections (15)(a)(i) through (iv); and
285 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
286 (i) the tooling, equipment, or parts are used or consumed exclusively in the
287 performance of any aerospace or electronics industry contract with the United States
288 government or any subcontract under that contract; and
289 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
290 title to the tooling, equipment, or parts is vested in the United States government as evidenced
291 by:
292 (A) a government identification tag placed on the tooling, equipment, or parts; or
293 (B) listing on a government-approved property record if placing a government
294 identification tag on the tooling, equipment, or parts is impractical;
295 (16) sales of newspapers or newspaper subscriptions;
296 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
297 product transferred electronically traded in as full or part payment of the purchase price, except
298 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
299 trade-ins are limited to other vehicles only, and the tax is based upon:
300 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
301 vehicle being traded in; or
302 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
303 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
304 commission; and
305 (b) Subsection (17)(a) does not apply to the following items of tangible personal
306 property or products transferred electronically traded in as full or part payment of the purchase

307 price:

308 (i) money;

309 (ii) electricity;

310 (iii) water;

311 (iv) gas; or

312 (v) steam;

313 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

314 or a product transferred electronically used or consumed primarily and directly in farming

315 operations, regardless of whether the tangible personal property or product transferred

316 electronically:

317 (A) becomes part of real estate; or

318 (B) is installed by a:

319 (I) farmer;

320 (II) contractor; or

321 (III) subcontractor; or

322 (ii) sales of parts used in the repairs or renovations of tangible personal property or a

323 product transferred electronically if the tangible personal property or product transferred

324 electronically is exempt under Subsection (18)(a)(i); and

325 (b) amounts paid or charged for the following are subject to the taxes imposed by this

326 chapter:

327 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is

328 incidental to farming:

329 (I) machinery;

330 (II) equipment;

331 (III) materials; or

332 (IV) supplies; and

333 (B) tangible personal property that is considered to be used in a manner that is

334 incidental to farming includes:

335 (I) hand tools; or

336 (II) maintenance and janitorial equipment and supplies;

337 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product

338 transferred electronically if the tangible personal property or product transferred electronically
339 is used in an activity other than farming; and

340 (B) tangible personal property or a product transferred electronically that is considered
341 to be used in an activity other than farming includes:

342 (I) office equipment and supplies; or

343 (II) equipment and supplies used in:

344 (Aa) the sale or distribution of farm products;

345 (Bb) research; or

346 (Cc) transportation; or

347 (iii) a vehicle required to be registered by the laws of this state during the period

348 ending two years after the date of the vehicle's purchase;

349 (19) sales of hay;

350 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

351 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

352 garden, farm, or other agricultural produce is sold by:

353 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other

354 agricultural produce;

355 (b) an employee of the producer described in Subsection (20)(a); or

356 (c) a member of the immediate family of the producer described in Subsection (20)(a);

357 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

358 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

359 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

360 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

361 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

362 manufacturer, processor, wholesaler, or retailer;

363 (23) a product stored in the state for resale;

364 (24) (a) purchases of a product if:

365 (i) the product is:

366 (A) purchased outside of this state;

367 (B) brought into this state:

368 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

369 (II) by a nonresident person who is not living or working in this state at the time of the
370 purchase;

371 (C) used for the personal use or enjoyment of the nonresident person described in
372 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

373 (D) not used in conducting business in this state; and

374 (ii) for:

375 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
376 the product for a purpose for which the product is designed occurs outside of this state;

377 (B) a boat, the boat is registered outside of this state; or

378 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
379 outside of this state;

380 (b) the exemption provided for in Subsection (24)(a) does not apply to:

381 (i) a lease or rental of a product; or

382 (ii) a sale of a vehicle exempt under Subsection (33); and

383 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
384 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
385 following:

386 (i) conducting business in this state if that phrase has the same meaning in this
387 Subsection (24) as in Subsection (63);

388 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
389 as in Subsection (63); or

390 (iii) a purpose for which a product is designed if that phrase has the same meaning in
391 this Subsection (24) as in Subsection (63);

392 (25) a product purchased for resale in this state, in the regular course of business, either
393 in its original form or as an ingredient or component part of a manufactured or compounded
394 product;

395 (26) a product upon which a sales or use tax was paid to some other state, or one of its
396 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
397 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
398 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
399 Act;

400 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
401 person for use in compounding a service taxable under the subsections;

402 (28) purchases made in accordance with the special supplemental nutrition program for
403 women, infants, and children established in 42 U.S.C. Sec. 1786;

404 (29) beginning on July 1, 1999, through June 30, [~~2014~~] 2029, sales or leases of rolls,
405 rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills,
406 or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial
407 Classification Manual of the federal Executive Office of the President, Office of Management
408 and Budget;

409 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
410 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

411 (a) not registered in this state; and

412 (b) (i) not used in this state; or

413 (ii) used in this state:

414 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
415 time period that does not exceed the longer of:

416 (I) 30 days in any calendar year; or

417 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
418 the borders of this state; or

419 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
420 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
421 state;

422 (31) sales of aircraft manufactured in Utah;

423 (32) amounts paid for the purchase of telecommunications service for purposes of
424 providing telecommunications service;

425 (33) sales, leases, or uses of the following:

426 (a) a vehicle by an authorized carrier; or

427 (b) tangible personal property that is installed on a vehicle:

428 (i) sold or leased to or used by an authorized carrier; and

429 (ii) before the vehicle is placed in service for the first time;

430 (34) (a) 45% of the sales price of any new manufactured home; and

- 431 (b) 100% of the sales price of any used manufactured home;
- 432 (35) sales relating to schools and fundraising sales;
- 433 (36) sales or rentals of durable medical equipment if:
- 434 (a) a person presents a prescription for the durable medical equipment; and
- 435 (b) the durable medical equipment is used for home use only;
- 436 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 437 Section 72-11-102; and
- 438 (b) the commission shall by rule determine the method for calculating sales exempt
- 439 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 440 (38) sales to a ski resort of:
- 441 (a) snowmaking equipment;
- 442 (b) ski slope grooming equipment;
- 443 (c) passenger ropeways as defined in Section 72-11-102; or
- 444 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 445 described in Subsections (38)(a) through (c);
- 446 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 447 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 448 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 449 59-12-102;
- 450 (b) if a seller that sells or rents at the same business location the right to use or operate
- 451 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 452 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 453 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 454 amusement, entertainment, or recreation for the assisted amusement devices; and
- 455 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 456 Utah Administrative Rulemaking Act, the commission may make rules:
- 457 (i) governing the circumstances under which sales are at the same business location;
- 458 and
- 459 (ii) establishing the procedures and requirements for a seller to separately account for
- 460 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 461 assisted amusement devices;

462 (41) (a) sales of photocopies by:
463 (i) a governmental entity; or
464 (ii) an entity within the state system of public education, including:
465 (A) a school; or
466 (B) the State Board of Education; or
467 (b) sales of publications by a governmental entity;
468 (42) amounts paid for admission to an athletic event at an institution of higher
469 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
470 20 U.S.C. Sec. 1681 et seq.;

471 (43) (a) sales made to or by:
472 (i) an area agency on aging; or
473 (ii) a senior citizen center owned by a county, city, or town; or
474 (b) sales made by a senior citizen center that contracts with an area agency on aging;

475 (44) sales or leases of semiconductor fabricating, processing, research, or development
476 materials regardless of whether the semiconductor fabricating, processing, research, or
477 development materials:
478 (a) actually come into contact with a semiconductor; or
479 (b) ultimately become incorporated into real property;

480 (45) an amount paid by or charged to a purchaser for accommodations and services
481 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
482 59-12-104.2;

483 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
484 sports event registration certificate in accordance with Section 41-3-306 for the event period
485 specified on the temporary sports event registration certificate;

486 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
487 by the Public Service Commission of Utah only for purchase of electricity produced from a
488 new alternative energy source, as designated in the tariff by the Public Service Commission of
489 Utah; and
490 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
491 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
492 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

- 493 (48) sales or rentals of mobility enhancing equipment if a person presents a
494 prescription for the mobility enhancing equipment;
- 495 (49) sales of water in a:
496 (a) pipe;
497 (b) conduit;
498 (c) ditch; or
499 (d) reservoir;
- 500 (50) sales of currency or coins that constitute legal tender of a state, the United States,
501 or a foreign nation;
- 502 (51) (a) sales of an item described in Subsection (51)(b) if the item:
503 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
504 (ii) has a gold, silver, or platinum content of 50% or more; and
505 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
506 (i) ingot;
507 (ii) bar;
508 (iii) medallion; or
509 (iv) decorative coin;
- 510 (52) amounts paid on a sale-leaseback transaction;
- 511 (53) sales of a prosthetic device:
512 (a) for use on or in a human; and
513 (b) (i) for which a prescription is required; or
514 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 515 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
516 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
517 or equipment is primarily used in the production or postproduction of the following media for
518 commercial distribution:
519 (i) a motion picture;
520 (ii) a television program;
521 (iii) a movie made for television;
522 (iv) a music video;
523 (v) a commercial;

524 (vi) a documentary; or
525 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
526 commission by administrative rule made in accordance with Subsection (54)(d); or
527 (b) purchases, leases, or rentals of machinery or equipment by an establishment
528 described in Subsection (54)(c) that is used for the production or postproduction of the
529 following are subject to the taxes imposed by this chapter:
530 (i) a live musical performance;
531 (ii) a live news program; or
532 (iii) a live sporting event;
533 (c) the following establishments listed in the 1997 North American Industry
534 Classification System of the federal Executive Office of the President, Office of Management
535 and Budget, apply to Subsections (54)(a) and (b):
536 (i) NAICS Code 512110; or
537 (ii) NAICS Code 51219; and
538 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
539 commission may by rule:
540 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
541 or
542 (ii) define:
543 (A) "commercial distribution";
544 (B) "live musical performance";
545 (C) "live news program"; or
546 (D) "live sporting event";
547 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
548 on or before June 30, 2027, of tangible personal property that:
549 (i) is leased or purchased for or by a facility that:
550 (A) is an alternative energy electricity production facility;
551 (B) is located in the state; and
552 (C) (I) becomes operational on or after July 1, 2004; or
553 (II) has its generation capacity increased by one or more megawatts on or after July 1,
554 2004, as a result of the use of the tangible personal property;

555 (ii) has an economic life of five or more years; and
556 (iii) is used to make the facility or the increase in capacity of the facility described in
557 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
558 transmission grid including:
559 (A) a wind turbine;
560 (B) generating equipment;
561 (C) a control and monitoring system;
562 (D) a power line;
563 (E) substation equipment;
564 (F) lighting;
565 (G) fencing;
566 (H) pipes; or
567 (I) other equipment used for locating a power line or pole; and
568 (b) this Subsection (55) does not apply to:
569 (i) tangible personal property used in construction of:
570 (A) a new alternative energy electricity production facility; or
571 (B) the increase in the capacity of an alternative energy electricity production facility;
572 (ii) contracted services required for construction and routine maintenance activities;
573 and
574 (iii) unless the tangible personal property is used or acquired for an increase in capacity
575 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
576 acquired after:
577 (A) the alternative energy electricity production facility described in Subsection
578 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
579 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
580 in Subsection (55)(a)(iii);
581 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
582 on or before June 30, 2027, of tangible personal property that:
583 (i) is leased or purchased for or by a facility that:
584 (A) is a waste energy production facility;
585 (B) is located in the state; and

586 (C) (I) becomes operational on or after July 1, 2004; or
587 (II) has its generation capacity increased by one or more megawatts on or after July 1,
588 2004, as a result of the use of the tangible personal property;

589 (ii) has an economic life of five or more years; and
590 (iii) is used to make the facility or the increase in capacity of the facility described in
591 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
592 transmission grid including:

- 593 (A) generating equipment;
- 594 (B) a control and monitoring system;
- 595 (C) a power line;
- 596 (D) substation equipment;
- 597 (E) lighting;
- 598 (F) fencing;
- 599 (G) pipes; or
- 600 (H) other equipment used for locating a power line or pole; and

601 (b) this Subsection (56) does not apply to:

- 602 (i) tangible personal property used in construction of:
 - 603 (A) a new waste energy facility; or
 - 604 (B) the increase in the capacity of a waste energy facility;
- 605 (ii) contracted services required for construction and routine maintenance activities;

606 and

607 (iii) unless the tangible personal property is used or acquired for an increase in capacity
608 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

609 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
610 described in Subsection (56)(a)(iii); or

611 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
612 in Subsection (56)(a)(iii);

613 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
614 or before June 30, 2027, of tangible personal property that:

615 (i) is leased or purchased for or by a facility that:

616 (A) is located in the state;

- 617 (B) produces fuel from alternative energy, including:
- 618 (I) methanol; or
- 619 (II) ethanol; and
- 620 (C) (I) becomes operational on or after July 1, 2004; or
- 621 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 622 a result of the installation of the tangible personal property;
- 623 (ii) has an economic life of five or more years; and
- 624 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 625 (b) this Subsection (57) does not apply to:
- 626 (i) tangible personal property used in construction of:
- 627 (A) a new facility described in Subsection (57)(a)(i); or
- 628 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 629 (ii) contracted services required for construction and routine maintenance activities;
- 630 and
- 631 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 632 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 633 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 634 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 635 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
- 636 product transferred electronically to a person within this state if that tangible personal property
- 637 or product transferred electronically is subsequently shipped outside the state and incorporated
- 638 pursuant to contract into and becomes a part of real property located outside of this state;
- 639 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 640 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 641 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 642 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 643 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 644 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
- 645 refund:
- 646 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
- 647 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on

648 which the sale is made;

649 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
650 sale prior to filing for the refund;

651 (iv) for sales and use taxes paid under this chapter on the sale;

652 (v) in accordance with Section 59-1-1410; and

653 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
654 the person files for the refund on or before June 30, 2011;

655 (59) purchases:

656 (a) of one or more of the following items in printed or electronic format:

657 (i) a list containing information that includes one or more:

658 (A) names; or

659 (B) addresses; or

660 (ii) a database containing information that includes one or more:

661 (A) names; or

662 (B) addresses; and

663 (b) used to send direct mail;

664 (60) redemptions or repurchases of a product by a person if that product was:

665 (a) delivered to a pawnbroker as part of a pawn transaction; and

666 (b) redeemed or repurchased within the time period established in a written agreement
667 between the person and the pawnbroker for redeeming or repurchasing the product;

668 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

669 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

670 and

671 (ii) has a useful economic life of one or more years; and

672 (b) the following apply to Subsection (61)(a):

673 (i) telecommunications enabling or facilitating equipment, machinery, or software;

674 (ii) telecommunications equipment, machinery, or software required for 911 service;

675 (iii) telecommunications maintenance or repair equipment, machinery, or software;

676 (iv) telecommunications switching or routing equipment, machinery, or software; or

677 (v) telecommunications transmission equipment, machinery, or software;

678 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

679 personal property or a product transferred electronically that are used in the research and
680 development of alternative energy technology; and

681 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
682 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
683 purchases of tangible personal property or a product transferred electronically that are used in
684 the research and development of alternative energy technology;

685 (63) (a) purchases of tangible personal property or a product transferred electronically
686 if:

687 (i) the tangible personal property or product transferred electronically is:

688 (A) purchased outside of this state;

689 (B) brought into this state at any time after the purchase described in Subsection
690 (63)(a)(i)(A); and

691 (C) used in conducting business in this state; and

692 (ii) for:

693 (A) tangible personal property or a product transferred electronically other than the
694 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
695 for a purpose for which the property is designed occurs outside of this state; or

696 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
697 outside of this state;

698 (b) the exemption provided for in Subsection (63)(a) does not apply to:

699 (i) a lease or rental of tangible personal property or a product transferred electronically;
700 or

701 (ii) a sale of a vehicle exempt under Subsection (33); and

702 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
703 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
704 following:

705 (i) conducting business in this state if that phrase has the same meaning in this
706 Subsection (63) as in Subsection (24);

707 (ii) the first use of tangible personal property or a product transferred electronically if
708 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

709 (iii) a purpose for which tangible personal property or a product transferred

710 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
711 Subsection (24);

712 (64) sales of disposable home medical equipment or supplies if:

713 (a) a person presents a prescription for the disposable home medical equipment or
714 supplies;

715 (b) the disposable home medical equipment or supplies are used exclusively by the
716 person to whom the prescription described in Subsection (64)(a) is issued; and

717 (c) the disposable home medical equipment and supplies are listed as eligible for
718 payment under:

719 (i) Title XVIII, federal Social Security Act; or

720 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

721 (65) sales:

722 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
723 District Act; or

724 (b) of tangible personal property to a subcontractor of a public transit district, if the
725 tangible personal property is:

726 (i) clearly identified; and

727 (ii) installed or converted to real property owned by the public transit district;

728 (66) sales of construction materials:

729 (a) purchased on or after July 1, 2010;

730 (b) purchased by, on behalf of, or for the benefit of an international airport:

731 (i) located within a county of the first class; and

732 (ii) that has a United States customs office on its premises; and

733 (c) if the construction materials are:

734 (i) clearly identified;

735 (ii) segregated; and

736 (iii) installed or converted to real property:

737 (A) owned or operated by the international airport described in Subsection (66)(b); and

738 (B) located at the international airport described in Subsection (66)(b);

739 (67) sales of construction materials:

740 (a) purchased on or after July 1, 2008;

- 741 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 742 (i) located within a county of the second class; and
- 743 (ii) that is owned or operated by a city in which an airline as defined in Section
- 744 [59-2-102](#) is headquartered; and
- 745 (c) if the construction materials are:
- 746 (i) clearly identified;
- 747 (ii) segregated; and
- 748 (iii) installed or converted to real property:
- 749 (A) owned or operated by the new airport described in Subsection (67)(b);
- 750 (B) located at the new airport described in Subsection (67)(b); and
- 751 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 752 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 753 (69) purchases and sales described in Section [63H-4-111](#);
- 754 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 755 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 756 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 757 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 758 powered aircraft; or
- 759 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 760 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 761 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 762 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 763 powered aircraft;
- 764 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 765 (a) to a person admitted to an institution of higher education; and
- 766 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 767 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 768 textbook for a higher education course;
- 769 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 770 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 771 level of municipal services;

772 (73) amounts paid or charged for construction materials used in the construction of a
773 new or expanding life science research and development facility in the state, if the construction
774 materials are:

- 775 (a) clearly identified;
- 776 (b) segregated; and
- 777 (c) installed or converted to real property;

778 (74) amounts paid or charged for:

779 (a) a purchase or lease of machinery and equipment that:

780 (i) are used in performing qualified research:

781 (A) as defined in Section 59-7-612;

782 (B) in the state; and

783 (C) with respect to which the purchaser pays or incurs a qualified research expense as
784 defined in Section 59-7-612; and

785 (ii) have an economic life of three or more years; and

786 (b) normal operating repair or replacement parts:

787 (i) for the machinery and equipment described in Subsection (74)(a); and

788 (ii) that have an economic life of three or more years;

789 (75) a sale or lease of tangible personal property used in the preparation of prepared
790 food if:

791 (a) for a sale:

792 (i) the ownership of the seller and the ownership of the purchaser are identical; and

793 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

794 tangible personal property prior to making the sale; or

795 (b) for a lease:

796 (i) the ownership of the lessor and the ownership of the lessee are identical; and

797 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

798 personal property prior to making the lease;

799 (76) (a) purchases of machinery or equipment if:

800 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

801 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

802 System of the federal Executive Office of the President, Office of Management and Budget;

- 803 (ii) the machinery or equipment:
- 804 (A) has an economic life of three or more years; and
- 805 (B) is used by one or more persons who pay admission or user fees described in
- 806 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 807 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 808 (A) amounts paid or charged as admission or user fees described in Subsection
- 809 59-12-103(1)(f); and
- 810 (B) subject to taxation under this chapter;
- 811 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 812 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 813 previous calendar quarter is:
- 814 (i) amounts paid or charged as admission or user fees described in Subsection
- 815 59-12-103(1)(f); and
- 816 (ii) subject to taxation under this chapter; and
- 817 (c) on or before the November 2018 interim meeting, and every five years after the
- 818 November 2018 interim meeting, the commission shall review the exemption provided in this
- 819 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- 820 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
- 821 exemption;
- 822 (ii) the purpose and effectiveness of the exemption; and
- 823 (iii) whether the exemption benefits the state;
- 824 (77) purchases of a short-term lodging consumable by a business that provides
- 825 accommodations and services described in Subsection 59-12-103(1)(i);
- 826 (78) amounts paid or charged to access a database:
- 827 (a) if the primary purpose for accessing the database is to view or retrieve information
- 828 from the database; and
- 829 (b) not including amounts paid or charged for a:
- 830 (i) digital audiowork;
- 831 (ii) digital audio-visual work; or
- 832 (iii) digital book;
- 833 (79) amounts paid or charged for a purchase or lease made by an electronic financial

- 834 payment service, of:
- 835 (a) machinery and equipment that:
- 836 (i) are used in the operation of the electronic financial payment service; and
- 837 (ii) have an economic life of three or more years; and
- 838 (b) normal operating repair or replacement parts that:
- 839 (i) are used in the operation of the electronic financial payment service; and
- 840 (ii) have an economic life of three or more years; and
- 841 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#).

Legislative Review Note
as of **1-20-14 10:11 AM**

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